

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

**Ex parte Heinen**

Serial No.: 10/775,795  
Filed: February 10, 2004  
Art Unit: 1733  
Examiner: Steven D. Maki  
Applicant: Richard Heinen  
Title: ELONGATED BLOCK TIRE TREAD  
Attorney Docket: 2004013  
Confirmation No.: 9693

October 30, 2007

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**REPLY BRIEF**

I hereby certify that this correspondence is being  
filed electronically on the 30<sup>th</sup> day of October,  
2007.

/Robert N. Lipcsik/

Robert N. Lipcsik, Reg. No. 44,460

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**REPLY BRIEF**

Appellant hereby files this Reply Brief in response to the Examiner's Answer mailed September 21, 2007. The Commissioner is authorized to charge any additional filing fees which may be required or to refund any overpayment to Account No. 07-1725.

## REMARKS/ARGUMENTS

This Reply Brief responds to the Examiner's Answer mailed on September 21, 2007. Please further consider the following arguments:

First, Appellants acknowledge that the USPTO has issued new Examination Guidelines subsequent to the filing of the Appeal Brief in this case. Appellants further acknowledge that the majority of the arguments in the Appeal Brief were directed to the seventh rationale of the Guidelines for supporting an obviousness rejection, the previously exclusive TSM test.

It is respectfully submitted that the arguments of the Appeal Brief are equally applicable to whether the modifications proposed by the Examiner would have been conducted by one of ordinary skill in the art because of the predictability of the results of such modifications. If one of ordinary skill in the art would not have been motivated to modify either the Europe 456 reference or the Japan 413 reference, how could one of ordinary skill in the art be led to the necessarily subsequent step of predicting the results of an unmotivated modification?

Second, if the Board has not been persuaded to withdraw the rejections of the claims, Appellants respectfully request that the Board remand this case to the Examiner so that this case may be fairly examined under the new Examination Guidelines, which have been issued subsequent to both the Appeal Brief and the Examiner's Answer.

Respectfully submitted,

/Robert N. Lipcsik/

Robert N. Lipcsik, Reg. No. 44,460  
Attorney for Appellant

The Goodyear Tire & Rubber Company  
Intellectual Property Law Department 823  
1144 East Market Street  
Akron, OH 44316-0001  
Phone: 330-796-5240